

Jo (m)  
**Robert Lane Carey**, OSB No. 87186  
Direct Dial: (503) 802-2032  
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FILED MAR 12 15:25 USDC-ORF

**TONKON TORP LLP**  
1600 Pioneer Tower  
888 SW Fifth Avenue  
Portland, OR 97204-2099

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

EDDARINE ROACH,

Plaintiff,

v.

LEGACY HEALTH SYSTEM, an Oregon  
corporation,

Defendant.

**CV '08-0534-JO**  
Civil No.

**NOTICE OF REMOVAL**

(Pursuant to 28 U.S.C. §§ 1331,  
1367, 1441, and 1446)

Defendant Legacy Health System ("Legacy") hereby gives notice that the above action is removed from the Circuit Court of the State of Oregon for Multnomah County, in which Court said cause is now pending, to the United States District Court for the District of Oregon, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446.

IN SUPPORT THEREOF, Defendant states as follows:

1. Defendant is a party in a civil action brought against it in the Circuit Court of the State of Oregon for the County of Multnomah entitled *Eddarine Roach v. Legacy Health System*, Case No. 0804-05034, filed on April 2, 2008.

2. The first date upon which Defendant Legacy received notice of the Complaint was April 10, 2008, when it was served with the Summons and Complaint.

#21034 21053

3. Exhibit 1 constitutes all process, pleadings, and orders served upon Defendant in this action to date.

4. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331 because Plaintiff's First Claim for Relief is brought under Title VII of the U.S. Code, 42 U.S.C. § 2000e-5. Plaintiff's Second Claim for Relief is brought under 42 U.S.C. § 1981. Therefore, Defendant may remove this action to this Court pursuant to the provisions of 28 U.S.C. § § 1441 and 1446.

5. The Court has supplemental jurisdiction over Plaintiff's Third Claim for Relief pursuant to 28 U.S.C. § 1367.

6. This Notice of Removal is timely filed with the Court within 30 days of the earliest date by which Defendant was served as provided in 28 U.S.C. § 1446(b).

7. Removal venue lies in this Court because Plaintiff's action was filed and is pending in this District.

8. Promptly upon filing this Notice of Removal, Defendant will provide written notice to the Plaintiff and file a copy of this Notice of Removal with the Clerk of the Multnomah County Circuit Court.

9. Defendant is represented by the undersigned counsel and joins in this removal.

10. By filing this Notice of Removal and removing this case, Defendant does not waive, but rather expressly preserves any and all defenses.

11. This Notice of Removal is signed pursuant to Fed. R. Civ. P. 11.

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WHEREFORE, Defendant respectfully notes its removal of the captioned matter to the United States District Court for the District of Oregon.

DATED this 2<sup>nd</sup> day of May, 2008.

TONKON TORP LLP

By: 

**Robert Lane Carey**, OSB No. 87186  
Direct Dial: (503) 802-2032  
Direct Fax: (503) 972-3732  
E-mail: bob.carey@tonkon.com  
Of Attorneys for Defendant

# **Accelerated Process Service**

2512 Northeast 151<sup>st</sup> Ave, Vancouver WA 98684 503-248-7076

RECEIVED  
CIRCUIT COURT  
MULTNOMAH COUNTY  
08 APR 15 PM 3:20  
FILED

## **PROOF OF SERVICE**

Case # 0804-05034 Multnomah County Circuit Court  
State of Oregon

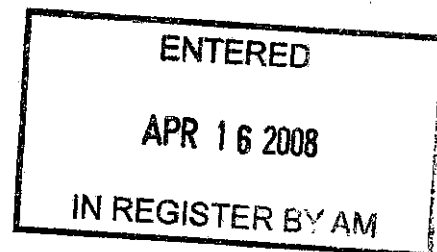
Plaintiff: EEDARINE ROACH  
Defendant: LEGACY HEALTH SYSTEMS

I declare that on 4/10/08 at 8:58 a.m. I personally served the Summons and Complaint on Becky Miller (personal assistant to registered agent Campell Groner III) at 1919 NW Lovejoy St, Portland, Oregon.

I declare under penalty of perjury I am over the age of 18 years and not a party to this action, the foregoing is true and correct and this declaration was executed on 4/11/08 at 5:07 a.m., at 2512 NE 151<sup>st</sup> Ave, Vancouver, Washington.

Jason Fitzgerald

Jason Fitzgerald  
Process Server  
Accelerated Process Service



Subscribed and Sworn to before me this 11th day of April, 2008.

Veronica Hinojosa  
Notary Public for Oregon  
In the County of Multnomah

My Commission Expires Sept 23, 2011



IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

EEDARINE ROACH,

Plaintiff,  
v.

LEGACY HEALTH SYSTEMS,

Defendant.

**0804-05034**

SUMMONS

**TO: DEFENDANT'S REGISTERED AGENT: P. CAMPBELL GRONER III, 1919 NW LOVEJOY PORTLAND, OREGON 97209** You are hereby required to appear and defend the complaint filed against you in the captioned case within 30 days from the date of service of this summons upon you, and in case of your failure to do so plaintiff will apply to the court for the relief demanded in the complaint.

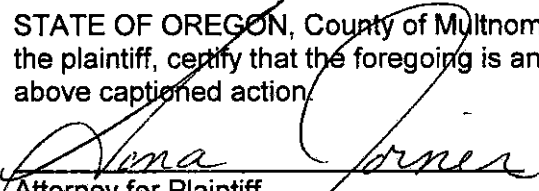
**NOTICE TO DEFENDANT - READ THESE PAPERS CAREFULLY**

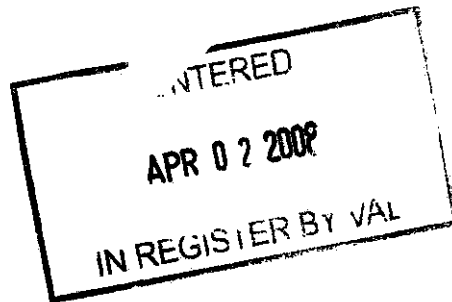
You must appear in this case or the other side will automatically win. To appear you must file with the court a legal document called a motion or an answer. The answer must be given to the court clerk within 30 days along with the required filing fee. It must be in proper form with proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon plaintiff.

If you have any questions you should see an attorney.

\_\_\_\_\_  
Sona Jean Joiner #84013  
2450 NE Halsey Street  
Portland, Oregon 97232  
(503) 241-1113

STATE OF OREGON, County of Multnomah, ss.; I the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact copy of the original summons in the above captioned action.

  
\_\_\_\_\_  
Attorney for Plaintiff



FILED  
08 APR -2 PM 2:21  
CIRCUIT COURT  
FOR MULTNOMAH COUNTY

Sona Jean Joiner, OSB #840133  
2450 NE Halsey Street  
Portland, Oregon 97232  
Phone: (503) 241-1113  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF OREGON  
FOR THE COUNTY OF MULTNOMAH

**05034**

EDDARINE ROACH,

Plaintiff,

vs

LEGACY HEALTH SYSTEM,

Defendant.

Civil No. **0804-05034**

COMPLAINT:

Race Discrimination -Title VII,  
42 USC 1982, ORS 659A.030

**JURY TRIAL REQUESTED**

**DEMAND OVER \$100,000**

**NOT SUBJECT TO  
MANDATORY ARBITRATION**

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## NATURE OF THE ACTION

1. This is an action under Title VII of the Civil Rights Act of 1991 and the Civil Rights Act of 1866 to correct unlawful employment practices based on race and national origin, to vindicate plaintiff's rights and the rights of others to fair treatment and equal opportunity, and to make plaintiff whole. Plaintiff, an African-American female, was subjected to intimidation and harassment due to her race and was terminated from her position as a switch board operator due to her race.

2. This is also an action for violation of the Oregon State Discrimination law, ORS 659A.030, pursuant to the court's supplemental jurisdiction.

## JURISDICTION AND VENUE

3. This court has jurisdiction over the subject matter of this Complaint pursuant to 28 U.S.C. §§ 451, 1331, 1337 and 1343. This action is authorized and instituted pursuant to Sections 706 of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. Section 1981 (A).

4. The court has jurisdiction over plaintiff's state law claim set forth in this complaint pursuant to its supplemental jurisdiction to hear related state

1 law claims under 28 U.S.C. Section 1367(a). Both the federal and state  
2 claims alleged herein arose from a common nucleus of operative facts, the  
3 state action is so related to the federal claim that they form part of the same  
4 case or controversy, and the actions would be expected to be tried in one  
5 judicial proceeding.  
6

7 5. The employment practices alleged herein were committed in the  
8 District of Oregon. Venue is proper pursuant to 42 U.S.C. § 2000e-5(f)(3).  
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#### 10 **PARTIES**

11 6. Plaintiff is a citizen of the United States and a resident of the  
12 State of Oregon.

13 7. Defendant Legacy Health Systems is corporation doing  
14 business in Portland, Oregon, and continuously had and does now have more  
15 than 50 employees.

#### 16 **FIRST CLAIM FOR RELIEF AGAINST DEFENDANT**

##### 17 **Title VII of the Civil Rights Act of 1964**

18 8. Plaintiff incorporates by reference the allegations is paragraphs  
19 1 through 7.  
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21 9. Plaintiff, an African-American female, was employed by  
22 defendant from approximately July 2000, until her termination on April 13,  
23 2007.  
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2 10. Since sometime in 2004, plaintiff's supervisor, Betty Hoyt, and  
3 various co-employees, subjected plaintiff, up till and through the date of her  
4 termination, to a hostile work environment because of her race.

5 11. Plaintiff complained of this to her manager

6 12. As a result of her reporting the harassing and discriminatory  
7 treatment, defendant retaliated by terminating plaintiff.

8 13. Plaintiff's termination and denial of the same conditions and  
9 terms of employment as white employees were in violation of Title VII of the  
10 Civil Rights Act of 1964.

11 14. As a result of defendants' acts described in this complaint,  
12 plaintiff has suffered the loss of wages and benefits of her employment in the  
13 approximate amount of \$45,000 from the date of termination through the date  
14 of filing this complaint plus such additional amounts in lost wages and  
15 benefits from the date of filing through the date of trial as will be proven at  
16 trial.  
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18 15. Plaintiff should be awarded an amount to be determined at trial  
19 for future lost wages and benefits of employment and lost future earning  
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16. As a result of defendant's acts described in this complaint, plaintiff suffered severe emotional distress, loss of dignity, humiliation, physical pain and nausea, anguish, and embarrassment, for which she should recover from defendant damages in the amount of \$300,000 or such amount as may be set by a jury, to compensate her for such injuries.

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17. Plaintiff is entitled to recover her reasonable attorney fees, costs, and expert witness expenses pursuant to 42 U.S.C. §2000e-5(k) and the Civil Rights Act of 1991.

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**SECOND CLAIM OF RELIEF AGAINST DEFENDANT**

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**Civil Rights Act of 1866**

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18. Plaintiff re-alleges paragraphs 1 through 16.

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19. Plaintiff's termination and the denial of the same conditions and terms of employment as white employees were in violation of the Civil Acts of 1866, 42 USC Section 1981.

**THIRD CLAIM OF RELIEF AGAINST DEFENDANT**

**Unlawful Employment Practices -- ORSA 659.030**

20. Plaintiff realleges paragraphs 1 - 16.

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21. Plaintiff's termination and the denial of the same conditions and terms of employment as white employees were in violation of ORSA 659.030.

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2 22. Plaintiff is entitled to recover her reasonable attorney fees and  
3 expert witness expenses pursuant to ORS 659A.121(1) & (2).

4 WHEREFORE, plaintiff requests the Court to:

5 1. Assume jurisdiction over each of the causes set forth herein.

6 2. Order defendant to make plaintiff whole by providing  
7 compensation for nonpecuniary losses, including physical and emotional pain  
8 and suffering, mental anguish, humiliation, embarrassment, and loss of  
9 enjoyment of life.

10 3. Order defendant to pay plaintiff's lost past and future wages and  
11 benefits of employment.

12 4. Award plaintiff her costs of suit, reasonable attorney fees, costs,  
13 and expert witness fees.

14 5. Order defendant to pay pre-judgment and post-judgment  
15 interest on all amounts due to plaintiff as a result of this action.

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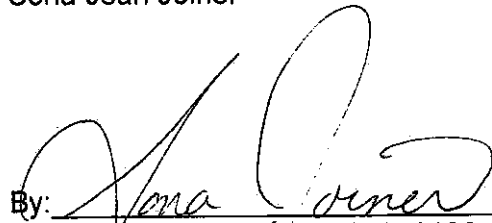
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**Jury Trial Demand**

Plaintiff demands a jury trial on all questions of fact or combined questions of law and fact raised by this Complaint.

DATED this 1 day of April, 2008.

Sona Jean Joiner

By:   
Sona Jean Joiner, OSB 840133  
Of Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **NOTICE OF REMOVAL (Pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446) - By Defendant Legacy Health System on:**

Sona Jean Joiner  
Attorney at Law  
2450 NE Halsey  
Portland, OR 97232

☐ by electronic means through the Court's Case Management/Electronic Case File system on the date set forth below;

☒ by mailing a copy thereof in a sealed, first-class postage prepaid envelope, addressed to each attorney's last-known address and depositing in the U.S. mail at Portland, Oregon on the date set forth below;

☐ by causing a copy thereof to be hand-delivered to said attorneys at each attorney's last-known office address on the date set forth below;

☐ by sending a copy thereof via overnight courier in a sealed, prepaid envelope, addressed to each attorney's last-known address on the date set forth below;

☐ by faxing a copy thereof to each attorney at each attorney's last-known facsimile number on the date set forth below; or

☐ by concurrently electronically mailing this document in Word format to each attorney's last-known e-mail address on the date set forth below

DATED this 2<sup>nd</sup> day of May, 2008.

TONKON TORP LLP

By: 

Robert Lane Carey, OSB No. 87186  
Of Attorneys for Defendant

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